

**ADMINISTRATIVE - INTERNAL USE ONLY**

5 November 1982

MEMORANDUM FOR: See Distribution

FROM: [REDACTED]

SUBJECT: Review of [REDACTED] to Incorporate Changes  
in CIA Law Regarding Former Spouses

1. At the behest of [REDACTED]  
[REDACTED] and in order to save time, we have attached a  
draft of proposed changes in [REDACTED] the CIARDS regulation.

2. The new law is fairly complicated and technical, and our  
Office has been working with the Office of Personnel to  
incorporate the new provisions of law into existing regulations,  
which represent only the essential requirements of the new  
statute. The effective date of this regulation is Monday,  
15 November 1982 and, therefore, we would like to have a  
coordinated draft regulation available to show our Oversight  
Committees on that date. It is requested that you nominate a  
knowledgeable member of your staff who will be prepared to offer  
substantive comments at a meeting on Tuesday, 9 November 1982 at  
2:00 PM in Room 5D03. We would hope that a single meeting would  
be sufficient but we are prepared to schedule additional meetings  
on Wednesday afternoon, 10 November, and on Friday afternoon,  
12 November, in order to take into account any comments and  
suggestions which are proposed by any of the components.

3. We appreciate your forbearance in view of the tight  
deadline and hope that we can effect this coordination to meet  
the effective date set by Congress. If there are any interim  
questions or comments, please call [REDACTED] or the  
undersigned on [REDACTED]

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Distribution;

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Inspector General  
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COMMO  
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PROPOSED HEADQUARTERS REGULATIONS TO IMPLEMENT  
Title VI, P.L. 97-269  
CIA Spouses' Retirement Equity Act of 1982:

BENEFITS FOR SPOUSES AND FORMER SPOUSES OF CIARDS PARTICIPANTS

STAT Amend  "Definitions," by adding

- 1) to sub-para. (3) the words "former spouses," after "including surviving wives and husbands," and
- 2) after sub-para. (15) the following new subparagraphs:

(16) 'Former spouse' means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of creditable service by that participant, at least five years of which were spent outside the United States by both the participant and the former spouse. A wife or husband becomes a former spouse upon divorce.

(17) 'Divorce' means the dissolution of a marriage by a final decree of divorce or annulment; the effective date of divorce or annulment is the date on which the decree becomes absolute or final. A legal separation does not effect a divorce.

(18) 'Court decree' or 'court order' is any court decree of divorce, annulment or legal separation between the participant and his or her spouse or former spouse, or any court order or court-approved property settlement agreement incident to such court decree of divorce, annulment or legal separation.

(19) 'Spousal agreement' means any written agreement between a participant or former participant, and the participant's spouse and/or former spouse. At a minimum to be legally enforceable, it must be signed by the parties and notarized.

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(20) 'Expressly provided for' means an explicit directive in a court decree or order or spousal agreement to award all or a portion of an annuity to an eligible beneficiary, or to waive or reduce a legal entitlement.

(21) 'Surviving spouse' means the surviving wife or husband of a participant or annuitant who, in the case of death in service or marriage after retirement, was married to the participant or annuitant for at least one year immediately preceding death or is the parent of a child born of the union.

(22) 'Pro rata share' means an amount equal to a proportion of the maximum payable to a spouse or former spouse (55 percent of a survivor annuity) or to a former spouse in the case of a lifetime annuity (50 percent) which is the proportion that the number of days of marriage to the participant during periods of creditable service bears to the total number of days of the participant's creditable service.

STAT Amend  "Death in Service",

- 1) by adding "or former spouse" after "widow or widower" each time those words appear; and
- 2) by deleting the phrase "equal to" and substituting "based on the length of marriage during periods of creditable service, up to a maximum of".

STAT Amend  "Refund of Compulsory Contributions",

- 1) by inserting "(1)" before the beginning of that subparagraph and redesignating the portions marked "(1)" and "(2)" as "(A)" and "(B)" respectively; and
- 2) by adding at the end of the subparagraph a new section designated "(2)":

(2) Whenever a participant becomes eligible for a lump sum payment under (A) above, a pro-rata share of that payment must be made to a former spouse based on the number of days of marriage during periods of creditable service, up to a maximum of 50 percent. Whenever a participant becomes eligible for a lump sum payment under (A) or (B) above, payment may be made to or for the benefit of the participant only upon notice to, and written consent by the participant's current spouse (if any).

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Amend [ ] by adding after "them" the first time it appears:

, subject to the restrictions regarding notification and consent of a current spouse in (2) below,

STAT

Amend [ ] by adding after "the system" and before the period "or who must consent to payment of a lump sum".

STAT

Amend [ ] "Computation of Annuities: Basic Formula," by adding to subparagraph (f) at the end thereof:

This provision also does not apply to an annuity or survivor annuity payable to a former spouse if the amount to which the former spouse would otherwise be entitled varies by reason of a spousal agreement, court order or elective waiver.

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Amend [ ] now entitled "Reduced Annuity with Benefit to Surviving Wife or Husband"

1) By retitling it "Annuities for Surviving Spouse and/or Former Spouse."

2) By substituting for existing subparagraphs (a) through (e):

(a) Reduced Annuity with Benefit to Surviving Spouse or Former Spouse

Except to the extent provided otherwise by spousal agreement, if at the time of retirement a participant or former participant (1) is married, or (2) has a former spouse divorced after 15 November 1982 who has not remarried prior to age 60, the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse or former spouse, or a combination of such annuities as the case may be.

(b) Base for Computation

The annuity or annuities payable to a surviving spouse and/or former spouse(s) shall together equal 55 percent of the participant's full annuity, unless (1) a reduced amount be jointly elected in writing by spousal agreement between the participant and spouse or former spouse as the base for that spouse's or former spouse's survivor annuity, or (2) the entire survivor annuity be waived by spousal agreement between the participant and spouse or former spouse otherwise entitled to receive it. If a participant and a former spouse waive a survivor annuity for that former spouse by spousal agreement, the election must be made within 12 months of the date the decree of divorce or

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annulment becomes final or at the time of retirement of the participant. If the participant's marriage is dissolved following an election for a reduced survivor annuity for a spouse and the spouse then qualifies as a former spouse, the base used in calculating a survivor annuity for that former spouse may not exceed the portion of the participant's annuity designated by spousal agreement as a base for the survivor annuity for that individual while married.

(c) Unilateral Waiver

A participant or former participant may elect to waive a survivor annuity for a spouse or former spouse without a spousal agreement only if the participant establishes to the satisfaction of the Director of Personnel that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

(d) Formula for Reducing Participant's Annuity

The annuity of a participant or former participant, excluding any portion not designated or committed as a base for any survivor annuity, shall be reduced by 2-1/2 percent of the first \$3,600 plus 10 percent of any amount over \$3,600. The reduction for survivor annuity or annuities shall be calculated before any reduction for a share in the participant's lifetime annuity for a former spouse under paragraph (3).

(e) Relative Rights of Surviving Spouse and Former Spouse

A surviving spouse of a former participant entitled to receive a reduced annuity shall be paid a survivor annuity equal to 55 percent of the full amount of the participant's annuity, or 55 percent of any lesser amount jointly elected as a base for the survivor benefit, unless the participant is also survived by a former spouse divorced after 15 November 1982 who is entitled to a pro rata share of the total amount available for survivor annuities based on the number of days of marriage to the participant during periods of creditable service. In the event such former spouse or spouses also survive the participant, the surviving spouse shall be paid an annuity only if and to the extent a portion of the maximum amount available for such benefits (55 percent of the participant's full annuity) remains uncommitted for survivor benefits for any former spouse whose right to such annuity has not been terminated by reason of remarriage prior to age 60 or death.

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(f) Computation of Former Spouse's Annuity

Unless otherwise expressly provided by any spousal agreement or court order, a qualifying former spouse who survives a participant entitled to receive an annuity shall be paid a survivor annuity based on the length of marriage to the participant during periods of creditable service, up to a maximum of 55 percent of the participant's full annuity if married to the participant throughout the latter's creditable service. A former spouse shall not be qualified for a survivor annuity if, before the commencement of that annuity, the former spouse remarries prior to age 60.

(g) Commencement and Termination

An annuity payable to a surviving spouse or former spouse shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the spouse or former spouse remarries before attaining age 60 or dies. If such an annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date the remarriage is dissolved by death, annulment, or divorce, provided any lump sum paid upon termination of the annuity is returned to the fund.

(h) Beneficiary's Right of Election

A surviving spouse or former spouse of a participant or former participant who is eligible to receive a survivor annuity (or the restoration of a survivor annuity) payable from the fund, and who is also eligible to receive another survivor annuity from this or any other retirement system for Government employees on the basis of another marriage, is not entitled to both annuities but must choose between them.

- 3) By redesignating existing subparagraph "(f)" as "(i)"; by entitling it "Elective Benefit for Spouse Married After Retirement"; by substituting for the first word thereof "Subject to the rights of former spouses under paragraphs (a) through (h), an"; and by inserting after "the spouse" the first time that phrase appears:

to the extent any portion of the maximum amount available for survivor annuities (55 percent of the participant's full annuity) remains uncommitted for survivor benefits for any former spouse whose prospective right to such annuity has not been terminated by remarriage before age 60 or death.

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## 4) By adding the following new subparagraphs:

(j) Recomputation Following Remarriage or Death of Beneficiary

(1) For each full month after a spouse or former spouse of a participant or former participant remarries before attaining age 60 or dies, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless the participant elects in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity for any spouse of the participant.

(2) If the retired participant remarries, he/she may irrevocably elect in writing within one year after remarriage, to receive during such marriage a reduction in annuity for the new spouse. The reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage, and shall be effective the first day of the first month beginning one year after the date of remarriage. If no election was in effect for the previous spouse, none may be made for the new spouse. A survivor annuity elected under this subsection shall be treated in all respects like a regular survivor annuity and shall be subject to the rights of any former spouse.

*would how  
a "notice"  
of remarriage  
is done -  
by form or  
copy of wedding  
certificate to  
RAD, or  
just a  
notice in  
writing*

*? yes - has form  
"elect" for  
a new spouse in  
year 1*

(k) Limitation on Adjustments

After the death of a participant or former participant, a court order may not adjust the amount of the annuity of any former spouse.

(l) Recomputation of Annuity Following Recall

(1) With respect to an annuity recomputed after a period of recall service under paragraph g, any married annuitant who reverts to retired status with entitlement to a higher annuity shall, unless the annuitant and his or her spouse jointly elect in writing by spousal agreement to the contrary at that time, have the recomputed annuity reduced by 2-1/2 percent of the first \$3,600 and by 10 percent of any amount over \$3,600 to provide an increased survivor annuity for his or her spouse equal to 55 percent of the recomputed annuity. This survivor annuity shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married, subject to the rights of any former spouse married to the participant during all or some portion of the latter's creditable service.



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(2) In the event such a qualifying former spouse survives the participant, the former spouse shall be paid a pro rata share of the recomputed annuity based on the length of marriage during all periods of creditable service, up to a maximum of 55 percent if married to the participant throughout the participant's creditable service. Any portion of the maximum available recomputed survivor annuity remaining uncommitted to a qualifying former spouse whose prospective right to the annuity has not terminated by reason of death or remarriage prior to age 60 or death shall be payable to the surviving spouse of the participant unless and until that surviving spouse remarries before attaining age 60.

(m) Additional Self-Financed Survivor Annuity

(1) A participant providing a regular survivor benefit to a former spouse may elect, or by spousal agreement or court order may provide, an additional survivor annuity funded entirely by contributions by the participant if the participant satisfactorily passes a physical examination prescribed by the Director of Medical Services.

(2) No surviving spouse or former spouse may receive more than 55 percent of the participant's full annuity.

(3) A participant may provide such an additional survivor annuity by

- (i) a reduction in annuity or allotment from salary,
- (ii) a lump-sum payment or installment payments, or
- (iii) any combination thereof.

(4) Whatever method of contribution is chosen, the present value of the total amount accruing to the fund must be actuarially equivalent in value to the additional survivor annuity as calculated according to mortality tables prescribed by the Director of Personnel.

(5) If provided by salary allotment or reduction in annuity, contributions will commence on the first of the month following acceptance by the Director of Personnel of the participant's written election or on the effective date of the spousal agreement or court order. If provided by lump sum or installment payments, contribution will commence within 12 months of acceptance of the election, or effective date of the agreement or

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order. If the participant dies before the effective date, no payment will be made to the beneficiary.

(6) If a former spouse named as beneficiary predeceases the participant or remarries before reaching age 60, or if a spouse named as beneficiary does not qualify as a former spouse on dissolution of the marriage, then if an annuity reduction or salary allotment was in effect for that spouse or former spouse, the annuity shall be recomputed or the salary allotment terminated. Any amount accrued to the fund shall be refunded but only if made by lump sum or installment payments that exceeded the actuarial cost of providing benefits for the period in which provision for the annuity was in effect.

(7) If a former spouse becomes ineligible for a regular survivor annuity by reason of death or remarriage, and the participant elects to retain the reduction in annuity to provide an increased regular survivor benefit for a current spouse, then the additional reduction in annuity or allotment from salary to provide an additional self-funded survivor annuity for the current spouse must be eliminated.

(8) Any additional survivor annuity payable to a spouse or former spouse shall commence on the day after the participant dies and terminate on the last day of the month before the beneficiary's remarriage prior to age 60 or death.

(9) Cost-of-living adjustments shall not apply to any additional survivor annuity.

(10) The requirement of a minimum monthly annuity payment based on the minimum Social Security payment does not apply to additional survivor annuities or to regular or survivor annuities the amount of which varies by reason of a spousal agreement or court order.

(n) Election of Survivor Benefits for Former Spouses Divorced Before 15 November 1982

(1) A participant or former participant who has a former spouse as of 15 November 1982 may by spousal agreement with that former spouse and any current spouse elect to receive a reduced annuity and provide a regular survivor annuity for that former spouse.

(2) If the participant or former participant has not retired by 15 November 1982, the election may be made at any time before retirement; if the participant or former participant is retired as of 15 November 1982, the election must be made within 12 months.

(3) An election of such survivor benefits may be based on all or any portion of that part of the participant's annuity which is not committed as a base for survivor benefits for a spouse or former spouse. The participant and his or her spouse may at the time of retirement elect a reduced annuity for the current spouse in order to provide an elective survivor annuity for a former spouse divorced before 15 November 1982.

(4) A reduction in a participant's annuity for an elective survivor annuity shall be made according to the formula in  The reduction will be effective on retirement if the participant has not retired as of 15 November 1982, and on that date if already retired. Whoever makes an election to provide an annuity within the 12-month period following 15 November 1982 shall have his/her annuity reduced effective on that date.

STAT

Amend 

- STAT
- 1) By redesignating existing paras. "(3)", "(4)", "(5)" and "(6)" as paras. "(5)", "(6)" "(7)" "(8)", respectively.
  - 2) By adding a new para. "(3)" entitled "Reduced Annuity with Benefit to Former Spouse":

(a) Former Spouse's Entitlement to Pro Rata Share of Participant's Annuity

(1) Unless otherwise expressly provided by spousal agreement or court order, a former spouse of a participant or former participant is entitled to a pro rata share of the participant's annuity, up to a maximum of 50 percent if married to the participant throughout the participant's creditable service.

(2) This entitlement applies only to former spouses divorced after 15 November 1982 from participants or former participants who separate from the Agency after that date. A former spouse who, prior to the commencement of the annuity, remarries before reaching 60 years of age does not qualify for such an annuity.

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(3) The former spouse's annuity commences on the date the divorce or annulment involved becomes final, or on the date the participant's annuity on which it is based commences (unless the participant retires on disability --see paragraph (c)) whichever is later. The former spouse's annuity terminates on the last day of the month before the former spouse dies or remarries prior to age 60, or on the date the participant's annuity terminates unless the participant is reemployed by the Agency. (See paragraph (b)(2).)

(b) Reduction in Participant's Annuity

(1) The annuity payable to a participant shall be reduced by the amount of an annuity payable to a former spouse. This reduction shall be disregarded in calculating any survivor annuity and in calculating any reduction in the participant's annuity to provide survivor benefits.

(2) If a retired participant is recalled to service, reinstated, reappointed or reemployed, the salary of the participant shall be reduced by the same amount as the annuity would have been reduced had it continued uninterrupted, and that amount deposited in the U. S. Treasury to the credit of the fund. The former spouse will continue to receive the same monthly payment based on the salary reduction as had been provided by the annuity reduction.

(3) No spousal agreement or court order may provide for an annuity for a former spouse or any combination of such annuities which exceeds the annuity of the participant. A court order providing an annuity for a former spouse must be issued within 12 months after the date the divorce or annulment becomes final.

(c) Former Spouse of a Disability Annuitant

(1) The annuity of a former spouse of a disability annuitant commences on the date the participant would have qualified for a regular annuity on the basis of creditable service if not disabled, or on the date the disability annuity begins, whichever is later.

(2) The amount of the former spouse's annuity shall be calculated on the basis of the annuity for which the participant would have qualified if not disabled based solely on the basis of the participant's actual creditable service.

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(3) As with a survivor annuity for a former spouse, the right of election applies. See [redacted]

[redacted] A former spouse who qualifies for both an annuity based upon a disabled participant's annuity and an annuity based upon the annuity of another participant in a federal retirement system is not entitled to both but must choose between them.

- 3) By adding a new paragraph "(4)" entitled "Spousal Agreements, Court Decrees and Orders":

Payments that would otherwise be made by statutory entitlement to a participant or the child, survivor, or former spouse of a participant shall be paid (in whole or in part) by the Director directly to the participant, or child, survivor, or former spouse of the participant according to the terms of any legally enforceable spousal agreement or recognized court decree of divorce, annulment, or legal separation between the participant and a spouse or former spouse, or the terms of any recognized court order or court approved property settlement agreement incident to any such spousal agreement or court decree of divorce, annulment, or legal separation. Any payment under this subsection to a party to a spousal agreement, or court decree of divorce, annulment, or legal separation or property settlement agreement incident thereto shall bar recovery by any other person.

Amend [redacted] by adding a new subparagraph "(f)" at the end thereof:

(f) Cost-of-living adjustments shall not be made to an additional survivor annuity for a spouse or former spouse that is funded entirely by a participant's contributions to the fund. See [redacted]

Amend [redacted] "Attachment of Moneys"

1) By retitling it "Payment of Moneys to Nonparticipants Other Than According to Statutory Entitlement".

2) By inserting after "any" the first time it appears "legally enforceable spousal agreement or "; and 2) after "any" the second time it appears "such spousal agreement or"

## ROUTING AND TRANSMITTAL SLIP

Date

TO: (Name, office symbol, room number,  
building, Agency/Post)

Initials

Date

1. Pete 15 NOV 1982

2.

3.

4.

5.

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

## REMARKS

STAT   advises meeting went well, only minor technical changes. ~~Nothing~~ Nothing major since law requires all this. She thought ~~final~~ final version was being typed Friday, and was to be hand-carried to Congress today - she hasn't seen a copy yet of final version.

*Thais*

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FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

Phone No.

5041-102

☆ GPO : 1981 O - 341-529 (120)

OPTIONAL FORM 41 (Rev. 7-76)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.206

## ROUTING AND TRANSMITTAL SLIP

Date

TO: (Name, office symbol, room number,  
building, Agency/Post)

Initials

Date

1.

2.

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Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

## REMARKS

1 - FYI - to read while Pete's away -- I'd like him to see this upon his return (we don't know when yet but I assume Wednesday since he has a meeting on Pay with D/Pers that morning). I've read ~~very carefully~~ every word and I don't understand a bit of it -- glad we have  around.....

3 - Agree, it seems over-complicated for something designed to see that a former spouse of a participant is entitled to a share of the participant's annuity up to a maximum of 50%.

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5041-102

OPTIONAL FORM 41 (Rev. 7-76)  
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FPMR (41 CFR) 101-11.206

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